



**Consumer  
Focus**  
Campaigning for a fair deal

# **Consumer Focus response to CAA consultation on passenger representation and complaint handling**

**June 2011**

# About Consumer Focus

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Consumer Focus is the statutory consumer champion for England, Wales, Scotland and (for postal consumers) Northern Ireland.

We operate across the whole of the economy, persuading businesses, public services and policy makers to put consumers at the heart of what they do.

Consumer Focus tackles the issues that matter to consumers, and aims to give people a stronger voice. We don't just draw attention to problems – we work with consumers and with a range of organisations to champion creative solutions that make a difference to consumers' lives.

# Our response

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We are pleased to respond to the above consultation. Consumer Focus has considerable experience of consumer representation and complaint handling in different regulated sectors.

As we explain below, we welcome the proposal for a Consumer Panel though would like to see further thinking done on complaints handling.

In terms of consumer advocacy, it is worth noting that the Government recently published a consultation document on the consumer landscape, which among other things suggests the establishment of a Regulated Industries Unit, able to influence regulators and regulated businesses across several sectors. Our [own thinking on such a Unit](#) is on our website, as is a paper on the case for [consumer advocacy in regulated markets](#).

We believe that any such unit should have an interest in the aviation sector, with the ability (and some limited ring-fenced funding) to commission research and contribute to major regulatory decision-making processes.

**This is not an alternative to a panel:** it has long been accepted in other sectors that panels and independent consumer advocacy bodies offer different, though complementary, advantages. Panels typically have ‘insider’ status, acting as advisers to the regulator, with the potential to be confidential sounding boards, their agenda is often determined by the regulator’s work, and to a large degree their insight comes from the expertise of panel members.

Independent consumer bodies tend to have a greater ability to determine their own agenda, deeper capacity for in-depth analysis, a stronger consumer evidence base and a greater public profile. Clearly this would need to be done in a way that removes any possibility of unnecessary duplication – this has been achieved relatively easily in other sectors such as financial services.

## Aviation Consumer Advocate Panel

We support the proposal to establish a panel. It is important that regulators have expert, evidenced-based input on the consumer interest, so that regulated companies and other businesses are not the only voices they hear when determining their agenda and making significant decisions. We do not consider that either airports or airlines are fully able to speak for the passenger interest. The rather complacent attitude of some in the industry that competition has resolved all issues is not borne out by our past analysis of performance and satisfaction data. In any event, this is in the end an argument about whether regulation is needed. Our view is that where regulation intended to benefit consumers does exist, those consumers should have some influence over its content.

We have significant experience of working alongside panels in other sectors, notably financial services, communications, food and legal services. We are aware that some in the aviation industry think the CAA proposal is novel; in fact the opposite is true. The creation of a panel would place this sector in the same position as a number of other leading regulators.

We agree with the characterisation of the panel as regulator-facing rather than public-facing and as a ‘critical friend’ to the regulator. Similar approaches have worked in other regulators, where the panels tend to enjoy a constructively challenging relationship with the regulator and are respected and valued for their expert insight.

**Role:** The role of the panel should be to represent the interests of current, future and potential air transport users to the CAA, and to gather and analyse evidence in support of this. We would expect it to engage with CAA's corporate strategy and workplan plus major set-piece regulatory activity such as price controls. But it should also be active on more ad hoc regulatory issues.

The panel clearly should have links with other consumer bodies, as panels currently operating do. In some instances there are Memoranda of Understanding between statutory consumer bodies (eg Consumer Focus and the Communications Consumer Panel), though this may offer few practical benefits over and above informal agreements to collaborate and to ensure that any unnecessary duplication is identified and tackled.

**Membership:** 10 is probably the maximum number of members CAA should seek to recruit, the optimum number may be around seven to eight so that the panel can function and operate as a fairly close-knit group and costs are kept down.

We would expect members to include people from background such as consumer and business organisations, NGOs, transport companies and consultancies, customer service roles, and regulatory functions.

The internet and social media are rapidly changing and disrupting the relationship between consumers, regulators and regulated businesses. Elements of this were highlighted in the Government's recent consumer empowerment strategy, including opportunities around reputational regulation and the wider use of user-generated feedback. On that basis we would expect at least one member to have expertise in how these disruptive forces can be utilised within the regulatory system in ways that further the interests of air passengers.

The panel's make-up should reflect the devolved nature of the UK, with identified members for Scotland, Wales and Northern Ireland. Some but not all should have aviation or wider transport sector experience. They should not be currently working in the air transport sector, however.

It is critical that all members are appointed in a personal capacity rather than as representatives of a particular group or organisation. They are not delegates. The one exception to this could be a member of the Consumer Council in Northern Ireland, as the paper proposes. We do not support suggestions that the panel should be drawn predominantly or wholly from members of airport consultative committees, though clearly these committees (which cover more than consumer issues) and especially any passenger sub-committees will be a useful source of input to the panel's work.

It will be imperative that members are able to consider the passenger interest generally, and understand the diversity of passengers, rather than merely drawing on their own experience.

This will in turn require that the panel has access to good quality information, notably data already collected by the CAA, airports and airlines. Some of this may have to be made available on a confidential basis, though so far as possible it should be public, in line with the Government's commitment in its consumer empowerment strategy that the default position for regulatory data is that it is publicly available.

**Recruitment:** This should be done in the usual way for public appointments, through open advertising. CAA board members should be involved in the process, as should someone from OCPA (or similar). It might make sense to involve someone with a consumer background, for example a member of one of the other consumer panels.

**Payment of members:** We are aware that AUC members were not paid but our understanding is that members of panels in other regulators are all paid. For example, the Food Standards Agency pays the chair of its Advisory Committee on Consumer Engagement £250 and members £200 for a day-long meeting, including preparation time. Paying members is therefore unlikely to involve major expense but will significantly broaden the pool of potential members and serve to emphasise the professional, serious nature of the panel and the level of expertise and commitment required. We would have serious concerns about the status, skills and diversity of the panel if members are not paid.

**Support:** Other panels all have a small support team, typically one to six people who are formally employed by the regulator and are either recruited externally by the panel or seconded from elsewhere within the regulator. It is important to note that their reporting lines are to the panel not the regulator.

Panels typically also have small budgets for research and analysis – they might for example commission an expert consultant on a technical issue or conduct limited consumer research. Clearly any such work should not replicate what is already done by the regulator or industry. We recommend CAA seeks views from the existing panels on what might be reasonable in terms of budget.

## CAA complaint handling

We consider that this issue needs a more fundamental consideration than is suggested by the brief text in the consultation document. We do not support the apparent suggestion that CAA should handle complaints on all aviation issues from all potential complainants.

As far as possible the objective should be to get aviation businesses to handle their own complaints well. In energy, post and water, the role of the regulator is to set standards for companies rather than handle complaints itself; and energy and postal companies are also required to belong to an ombudsman scheme. We think this model has been relatively successful in shifting the focus of complaints handling back to companies, and we would urge CAA to consider its plans in this context.

Information and advice, as opposed to complaints handling, should be delivered by Consumer Direct.

The one area where CAA may wish to retain a role concerns more vulnerable consumers, where passengers who are less able to make a complaint effectively may need additional support. Consumer Focus' Extra Help Unit provides such a service in energy and post, and we would be happy to provide you with further details if that would be useful. The current consultation on the Government's proposals for the consumer landscape could provide an opportunity to identify a suitable home for such a service, if it is felt that this function is needed.

**Consumer Focus**  
**29 June 2011**



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Published: June 2011

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